

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of Comcast Phone of Minnesota, Inc. for Arbitration of an Interconnection Agreement with Embarq Minnesota, Inc. Pursuant to 47 U.S.C. § 252(b)	FIRST PREHEARING ORDER
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This matter came on for a prehearing conference on June 12, 2008, at 9:30 a.m., in the Small Hearing Room of the Minnesota Public Utilities Commission (Commission) before Administrative Law Judge Manuel J. Cervantes. The following persons noted their appearance:

Joseph Stewart, Suite 3600, 50 West Broad Street, Columbus, OH 43215, appeared by telephone on behalf of Embarq Minnesota, Inc.(Embarq).

Linda S. Jensen, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street St. Paul, MN 55101-2131, appeared on behalf of the Department of Commerce (Department).

Robert E. Cattanach, Dorsey & Whitney, Suite 1500, 50 South Sixth Street, Minneapolis, MN 55402-1498, appeared on behalf of Comcast Phone of Minnesota, Inc. (Comcast).

Michael Sloan, David Wright, Tremaine, LLP., Suite 200, 1919 Pennsylvania Avenue NW, Washington, DC 20006, appeared by telephone on behalf of Comcast.

Kevin O'Grady, Analyst, Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, MN 55101-2147, appeared on behalf of Commission staff.

Based on the discussions during the prehearing conference, and upon all of the files, the Administrative Law Judge makes the following:

ORDER

PROCEDURE

1. The Administrative Procedure Act;¹ the Contested Case Rules of the Office of Administrative Hearings;² and the Commission's Rules on the Arbitration of Intercarrier Negotiations³ govern the conduct of the hearing in this matter. To the extent not superseded by the Contested Case Rules and the Commission's Rules on the Arbitration of Intercarrier Negotiations, the Commission's Rules of Practice and Procedure, Minn. R. 7829.0100 to 7829.3200, also apply.

PARTIES AND INTERVENTION

2. The Parties named in the Commission's Order Referring Matter to Office of Administrative Hearings for Arbitration, Assigning Arbitrator and Scheduling Prehearing Conference, issued June 4, 2008, are Comcast and Embarq. A request to intervene has been received from the Department. The Department is entitled to intervene as of right and is **ADMITTED** as a Party to this proceeding. There have been no other Petitions to Intervene submitted by anyone seeking to become a Party to this matter.

3. The Office of the Attorney General also has the right to intervene under Minn. R. 7812.1700, and may file a written Request to Intervene with the Administrative Law Judge no later than July 1, 2008. Minn. R. 7812.1700, subp. 10, further states that "No other intervention is permitted. Others wishing to participate may attend hearings as observers, file written comments and request the opportunity for oral argument to the arbitrator or the commission as provided in part 7829.0900." Any interested party may seek relief from the provisions of that Rule by submitting a written request for waiver to the Parties named in the Commission's Order, by July 1, 2008. The Parties will note their objection or acquiescence to such request by July 8, 2008. If the Parties agree to the request for waiver, the requestor shall be granted the rights of an Intervenor.

SCHEDULE

4. The following schedule, which was proposed by the parties, reflects the parties' agreement to waive the statutory nine-month deadline for resolving arbitration proceedings under 47 U.S.C. § 252, and is hereby adopted:

Date	Event
July 1, 2008	Deadline for filing request by OAG to intervene, and request to Parties by other interested parties for waiver of Minn. R. 7812.1700, subp. 10.
July 8, 2008	Response by Parties to any requests for waiver.

¹ Minn. Stat. §§ 14.57 – 14.62

² Minn. R. 1400.5100 – 8400.

³ Minn. RI 7812.1700.

August 5, 2008	Prefiled direct testimony (all Parties).
August 26, 2008	Prefiled rebuttal testimony (all Parties).
September 18, 2008, 9:00 am.	Evidentiary Hearing at PUC.
October 10, 2008	Initial post-hearing brief by all Parties and comments by interested parties.
October 24, 2008	Reply brief by all Parties.
November 19, 2008	Recommendation Decision of the ALJ.
December 5, 2008	Exceptions to ALJ Recommendation.
January 2009	Commission Decision

FILING OF DOCUMENTS

5. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier. Wherever possible, prefiled testimony and exhibits must be in a format capable of being E-filed with the Office of Administrative Hearings, the Public Utilities Commission, and the Department of Commerce (E-File system). Where an exhibit is not in a format that can be accepted by the E-File system, the sponsor shall E-file a placeholder document that describes the exhibit.

6. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

a. The official record copy shall, wherever feasible, be filed using the E-File system. Prior to the issuance of the Report of the Administrative Law Judge, any exhibit that is not E-Filed will be filed by delivery or mailing to the Administrative Law Judge.

b. Prior to the issuance of the Report of the Administrative Law Judge, a courtesy copy shall be delivered or mailed to:

Manuel J. Cervantes
Administrative Law Judge
PO Box 64620
St. Paul, MN 55164-0620

c. After the Administrative Law Judge's Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission.

7. Copies of all documents shall be served on the persons listed on the attached service list, in the number indicated. E-filing is sufficient service on those persons so indicated on the official service list. The list will be revised as necessary by the Office of Administrative Hearings. Service shall be made according to the most current service list provided to the parties by the Office of Administrative Hearings.

8. Pursuant to Minn. R. 1400.5100, subp. 9, and Minn. R. 7829.0400, subp. 1, the effective date of filing shall be the date the document is mailed by U.S. Mail or e-mail to the Office of Administrative Hearings or delivered to the Executive Secretary of the Commission. Filings to the Administrative Law Judge shall be accomplished by E-filing, hard copy by U.S. Mail, or delivery of a courtesy copy, except as provided in Findings 6 and 7 above.

9. Proof of service shall be filed with each filed document or within three business days thereafter. Parties using the E-filing system must retain the unique document identifier as proof of service through that system. No document demonstrating proof of E-filing should be filed, as the E-file system is self-authenticating.

10. Trade Secret and other nonpublic data shall be transmitted by US Mail or courier and not by unencrypted e-mail. If trade secret or other nonpublic data is filed with the Administrative Law Judge or Commission, it shall be prepared and marked in accordance with the Commission's September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data, which is available at www.puc.state.mn.us/docs/tradesecret.pdf.

COURT REPORTER

11. The Office of Administrative Hearings will arrange to have a court reporter present at the hearings. Parties must make arrangements with the court reporter to obtain a copy of the transcript.

REQUEST FOR ACCOMMODATION

12. No person has requested accommodation for a disability or appointment of an interpreter. The Office of Administrative Hearings shall be notified promptly if either an accommodation or interpreter is needed.

SUBPOENAS

13. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the Administrative Law Judge pursuant to Minn. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at www.oah.state.mn.us.

DISCOVERY

14. Discovery shall be by Information Request and response. Information Requests shall normally be made by e-mail to the person from whom the information is sought and a copy shall be e-mailed to all parties. Information Requests containing references to other documents shall be sufficiently detailed to inform the other parties of the nature of the request. Information Requests and responses shall not be sent to the Administrative Law Judge. The party responding to the Information Request shall provide the information requested within eight business days after receipt of the request. There shall be a continuing obligation to update and supplement information responses. Information Requests received after 4:00 p.m. at the place of receipt on business days, or on weekends or State holidays shall be considered to be received on the following business day, except that any U.S. Mail received during business hours shall be considered to be received on the same day.

15. In the event the information cannot be supplied within the required time, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Notice of such a motion should be made by e-mail if possible and may be heard by telephone conference among the Administrative Law Judge and affected parties.

16. Parties asked to provide information they deem confidential or nonpublic may request that the Administrative Law Judge issue a Protective Order.

17. Further discovery may be had in accordance with Minn. R. 1400.6700 - 1400.6900 by agreement of the parties or by motion to the Administrative Law Judge.

PREFILED TESTIMONY AND ORDER OF TESTIMONY

18. Prefiled testimony shall be designated and received as hearing exhibits. The sponsoring party will provide the unique E-file system identifying number of the prefiled document and the Administrative Law Judge will assign a hearing exhibit number to that document. Prefiled testimony that is amended or that is not offered into the record shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all substantive revisions or corrections to any prefiled testimony shall be filed with the Administrative Law Judge and served on the parties no later than three days before the evidentiary hearing starts. E-mail may be used to accomplish this service in an expeditious fashion (where e-mail addresses are available). When E-filing cannot be completed prior to the hearing, a hearing exhibit number will be reserved for that testimony and assigned once E-filing is completed. Any hearing exhibit that is E-filed after the hearing is not required to be served to the service list.

19. Except for good cause shown, any new affirmative matter that is not offered in reply to another party's direct or rebuttal evidence shall not be offered in rebuttal or surrebuttal testimony and exhibits.

20. Unless the parties agree otherwise, the order of testimony and questioning in the evidentiary hearings shall be: Comcast, Embarq, the Department.

21. If a witness needs a day certain to offer testimony, the sponsoring party should submit to the Administrative Law Judge and other parties a request for testimony on a day certain

EXAMINATION OF WITNESSES

22. Witnesses shall be allowed five minutes to summarize their prefiled testimony. Additional time may be allowed if necessary for a witness to respond to new issues raised by other parties, if no response was previously allowed.

23. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine witnesses through any one representative chosen by the party. Only parties may examine witnesses during the evidentiary hearing.

24. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party files and serves an objection prior to commencement of the evidentiary hearing. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony that is not objected to shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

Dated: June 25, 2008

s/Manuel J. Cervantes

MANUEL J. CERVANTES
Administrative Law Judge

	OAH Docket No. 16-2500-19708-2 MPUC Docket No. P-3123,430/M-08-570
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In the Matter of the Petition of Comcast Phone of Minnesota, Inc. for Arbitration of an Interconnection Agreement with Embarq Minnesota, Inc. Pursuant to 47 U.S.C. § 252(b)	NOTICE OF APPEARANCE
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TO: Administrative Law Judge Manuel J. Cervantes, 600 North Robert Street, PO
Box 64620, St. Paul, MN 55164

PLEASE TAKE NOTICE that the party named below will appear at the
prehearing conference and subsequent proceedings in the above-entitled matter.

Name, Address, and Telephone Number of Party:

Party's Attorney, Office Address, Telephone Number and Email:

Signature of Party or
Attorney:

Dated: _____.

NOTICE: This form must also be served upon the opposing party. Counsel may not
withdraw from representation without written notice.